

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT
OF WISCONSIN

GLEN FRANKLIN,
Plaintiff
VS.

Case No. **17-C-0251**

Nurse Practitioner Bowens,
Jane Doe Health Services Manager
Judy Smith, warden Oshkosh Correctional Institution
John Litscher, Secretary Wisconsin Dept of Corrections,
Defendants.

2017 FEB 23 A 11:19

CIVIL COMPLAINT PURSUANT TO 42 USC Section 1983:

JURISDICTION AND VENUE:

1. This is a civil action authorized by 42 USC Section 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States. The Court has jurisdiction under 28 USC Sections 1331 and 1343(a)(3). Plaintiff seeks declaratory relief pursuant to 28 USC Sections 2201 and 2202. Plaintiff claims for injunctive relief are authorized by 28 USC Sections 2283 and 2284 and Rule 65 of the Federal Rules of Civil Procedure.

2. Plaintiff, Glenn Franklin is a United States citizen and an adult resident of Wisconsin, at all times relevant to this action he was incarcerated as a state prisoner under the custody, control and jurisdiction of Oshkosh Correctional Institution where he is now housed at P.O. Box 3310 Oshkosh, Wisconsin 54903-3310.

DEFENDANTS:

3. Jon F. Litscher is a United States citizen and an adult resident of Wisconsin. He is employed as the Secretary of the Wisconsin Department of Corrections (WDOC), whose last address was at 3099 East Washington Avenue-P.O. Box 79255 Madison, Wisconsin 53707. As such he personally or by his designee participated in the final decisions on the inmate complaints at issue and as the top official over WDOC has the power to prevent, correct and/or otherwise prohibit the violations of prisoner's Constitutional rights as alleged herein.

4. Judy Smith is a United States citizen and an adult resident of Wisconsin. She is employed as the warden at Oshkosh Correctional Institution (OSCI), whose last address was at 1730 West Snell Road-P.O. Box 3530-Oshkosh, Wisconsin 54903-3530. She as the top official personally or by her designee participated in the final decisions made on the inmate complaints at issue in this complaint.

5. Jane Doe Health Services Manager is a United States citizen and an adult resident of Wisconsin. She is employed as the Health Services Manager at OSCI. She has the authority to prevent, correct and/or otherwise prohibit the violations of prisoner's Constitutional rights as alleged herein

6. Nurse Practitioner Bowens is a United States citizen and an adult resident of Wisconsin. She is employed at the Oshkosh Correctional Institution as a Nurse Practitioner. She has the authority to prevent, correct and/or otherwise prohibit the violations of prisoner's Constitutional rights as alleged herein.

7. FACTS:

In 2014, Plaintiff submitted numerous health services requests complaining about stomach pains, swollen testicals, and lower abdomen pains. These were accompanied with bloody stools as well. Plaintiff spent two days at one point in the health services unit due to the swollen testicals and severe pain in his abdomen and testes. The pain was so unbearable that the Plaintiff rocked back and forth on his side crying all night both nights.

In 2016 after over two years of complaining to Defendant Bowens and the Health services manager, who both refused to refer Plaintiff to a regular physician, Plaintiff filed an inmate grievance, several to be exact, the grievances were dismissed, appealed and dismissed again

8. Plaintiff filed the present complaint because the defendants have refused to treat an obvious serious ailment, that has left him in pain for years. They have acted with deliberate indifference to the serious medical needs of this Plaintiff in violation of the 8th Amendment to the United States Constitution.

9. All defendants are sued in their official and individual capacities. At all times mentioned in this complaint each defendant acted under color of state law.

10. Prison officials violate the 8th Amendment when they act with deliberate indifference to a prison condition that exposes a prisoner to an unreasonable risk of serious harm. Farmer v. Brennan, 511 U.S. 825(1994); Longoria v. Texas, 473 F.3d 586(5th Cir.2006).

11. Plaintiff realleges and incorporates by reference paragraphs 1-10.

12. The Plaintiff has no plain, adequate or complete remedy at law to redress the wrongs described herein. Plaintiff has been and will continue to be irreparably injured by the conduct

and injunctive relief which plaintiff seeks by suit.

PRAYER FOR RELIEF:

WHEREFORE#PLEADINGS CONSIDERED, Plaintiff respectfully preays that this Honorable Court will enter judgment granting plaintiff:

- A) A declaration that the acts and omissions described herein violated Plaintiff's rights under the Constitution and laws of the United States;
- B) A preliminary and permanent injunction ordering defendants to treat the ailments of the plaintiff without delay;
- C) Compensatory damages in the amount of \$125,000.00 against each defendant jointly and severally.
- D) Punitive damages in the amount of \$10,000.00 against each defendant.
- E) A Jury trial on all triable issues.
- F) Plaintiff's costs in suit.
- G) any additional relief this court deems just, proper and equitable.

RESPECTFULLY SUBMITTED,

Glen Franklin 2-20-17
Glen Franklin-Plaintiff
163696
P.O. Box 3310
Oshkosh, Wisconsin 54903-3310